

# CHAPTER 9:

## DEVELOPMENT REVIEW PROCESS

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## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### Section 9.1 Purpose and Applicability

The purpose of this Chapter is to establish an orderly process to develop land within the Town of Troutman. It is also the intent of this Chapter to provide a clear and comprehensible development process that is fair and equitable to all interests including the petitioners, affected neighbors, Town staff, related agencies, the Planning Board, and the Town Board of Aldermen. Approved plans shall be the guiding documents for final approval and permitting.

1. **Application Contents:** The Planning Department is authorized and shall establish the requirements for application contents and forms which shall be located in a Planning Information Packet. The Planning Department may amend and update the requirements as determined necessary.
2. **Fees:** The Town Board of Aldermen shall establish application fees and may amend and update those fees as determined necessary.
3. **Submission Schedule:** The Planning Department is authorized and shall establish the submission and review schedule (including time frames for review) for development applications. The Planning Department may amend and update these requirements as determined necessary.
4. **Planning Information Packet:** The Planning Department shall compile a Planning Information Packet, the requirements for application contents and forms, the submission and review schedule (including time frames for review), and fees. The Planning Information Packet shall be maintained in the Planning Department and shall be made available to the public.

The development review process applies to all new developments within the Town of Troutman except for existing individual lots for single-family detached residential and two-family residential (duplex) development. The provisions of this chapter shall be applicable to all Subdivisions, Site Plans, and Conditional Zoning District developments, as well as Vested Rights requests. The Zoning Administrator or designee may waive the required development review process for projects not involving a Special Use Permit only in the following cases when he determines that the submission of a development plan in accordance with this Chapter would serve no useful purpose:

- A. Accessory structures
- B. Any enlargement of a principal building by less than 20 percent of its existing size provided such enlargement will not result in parking or landscaping changes
- C. A change in principal use where such change would not result in a change in lot coverage, parking, or other site characteristics

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### Section 9.2 Development Review Matrix

	Summary of Development Review Process R= Review/Advise    D= Final Decision    A= Appeal								
Process	Planning Director/ Designee	Engineer/ Designee	Technical Review Committee	Design Review Board	Planning and Zoning Board	Town Board	Board of Adjustment	Public Hearing	Reference
Amendment, Map(Rezoning)	R				R	D	A	Yes	Ch. 13
Amendment, Text	R				R	D	A	Yes	Ch. 13
Certificate of Compliance	D	R	R				A	No	Sec. 14.3
Certificate of Occupancy	Currently reviewed and issued by Iredell County								
Design, Standard Building	D	R		D			A	No	Ch. 5
Design, Alternative Building	R	R	R	D			A	No	Sec. 5.7
Development Agreement	R	R	R		R	D	A	Yes	NCGS 160A-400
Engineering Documents	R	D					A	No	Ch. 8, 9.7, Ap. B
Plan, Concept	R	R	R		R	D*	D**	Yes	Sec. 9.4
Plan, Comprehensive Sign	R					D	A	No	Sec. 11.4.E
Plan, Improvement	Approved by the Town Manager						A	No	Sec.9.7
Plan, Site	R	R	D				A	No	Sec. 9.9
Plan, Sketch	R	Optional Review					NA	No	Sec. 9.3
Permit, Building	Currently reviewed and issued by Iredell County								
Permit, Floodplain	D						A	No	Sec. 3.6.14
Permit, Home Occupation	D						A	No	Sec.4.14
Permit, Sign	D						A	No	Sec. 11.4
Permit, Soil and Erosion	Currently reviewed and issued by Iredell County								
Permit, Special Use	R						D	Yes	Sec. 16.11
Permit, Temporary Use	D						A	No	Sec. 4.23
Permit, Zoning	D						A	No	Sec. 14.2
Special Exception	R					D	A	Yes	Sec. 9.11.2
Special Intensity Allocation	R					D	A	No	Sec. 3.5.4
Subdivision, Exception Plat	D						A	No	NCGS 160A-376
Subdivision, Final Plat	R	R	D				A	No	Sec. 9.8
Subdivision, Major Preliminary	R	R	R		R	D	A	No	Sec. 9.6
Subdivision, Minor	R	R	D				A	No	Sec. 9.5
Variance, Floodplain	R						D	Yes	Sec. 3.6.17
Variance, Watershed	R						D	Yes	Sec. 16.10.2
Variance, Other	R						D	Yes	Sec. 16.10
Vested Rights	R	R	R		R	D	A	Yes	Sec. 9.14
	* Town Board shall make a decision on development concepts submitted as part of a Conditional Zoning District or Development Agreement. **Board of Adjustment shall make a decision on a development concepts submitted as part of Special Use Permit.								

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### Section 9.3 Sketch Plan Review Process (All Submittals)

1. **Purpose:** The purpose of this section is to establish the procedure and standards for consideration of a Sketch Plan. The intent of the Sketch Plan process is to familiarize Town staff with a potential application for development and potential applicants with the applicable process and Town standards.
2. **Applicability:** The sketch plan review process is a non-binding and informal review of a development proposal and does not confer upon the applicant any development rights. A sketch plan is required for all submittals. For major subdivisions the Sketch Plan shall show all contiguous land holdings of the applicant and establish a phasing plan.
3. **Application and Procedure:** The application shall be filed with the Planning Department. The Planning Director shall notify the superintendent of Iredell-Statesville Schools when a sketch for a major subdivision has been submitted and note that the plan is available for viewing. The Planning Department may request comments from any person or agency directly affected by a proposed development.
4. **Review Criteria:** The Sketch Plan shall be reviewed for:
  - a. Consistency with the goals and objectives of adopted Town plans, policies, and procedures;
  - b. Consistency with applicable zoning of the property;
  - c. Consistency with public improvements within the development and surrounding area;
  - d. Availability and adequacy of required public utilities and services necessary to serve the project, including but not limited to, sanitary and storm sewers, water, electrical, police, fire, roads, and pedestrian accessibility;
  - e. Capacity or safety of the street network influenced by the use;
  - f. Adverse environmental impacts generated by the project; and
  - g. Other applicable provisions of the Unified Development Ordinance.
5. **Decision Maker:** Formal approvals or denials are not made by the Town on Sketch Plan applications. However, per the Applicant's or Staff's request any sketch can be brought before any Town review or decision making body for review and discussion. A statement regarding consistency with the Review Criteria as outlined above will be made to the applicant by the Planning Department.

### Section 9.4 Concept Plan Review Process

(for Special Use Permits, Conditional Zonings, and Development Agreements)

1. **Purpose:** The purpose of this section is to establish the procedure and standards for consideration of a Concept Plan. The intent of the Concept Plan process is to allow the Town to consider the general design and configuration of a development proposal and any applicant sponsored conditions for general compliance with the requirements of this Ordinance and any other applicable Town requirements prior to consideration of a Special Use Permit by the Board of Adjustment or Conditional Zoning District or Development Agreement by the Town Board.
2. **Applicability:** The Concept Review process is the presentation of a basic “concept” that will lead to highly technical and detailed engineered drawings as part of a Site Plan and/or Subdivision Preliminary Plat approval. A Concept Plan is required for any Conditional Zoning District, Development Agreement, or Special Use Permit. For Conditional Zoning Districts or Development Agreements the Concept Plan shall show all contiguous land holdings of the applicant and establish a phasing plan.
3. **Application and Procedure:** The application shall be filed with the Planning Department. The Planning Director shall notify the superintendent of Iredell-Statesville Schools when a Concept Plan for a Conditional Zoning District or Development Agreement with residential uses has been submitted and note that the Concept Plan is available for viewing. The Town may request comments from any person or agency directly affected by a proposed development. In cases where the Concept Plan is reviewed as part of an application for Conditional Zoning District or Development Agreement the Planning Board shall review the Review Criteria listed below in relation to the proposed development. The Planning Board shall make a statement regarding the consistency of the proposed development and a recommendation to approve, approve with conditions, or deny the Concept Plan to the Town Board.
4. **Review Criteria:** The Concept Plan shall be reviewed for:
  - a. Consistency with the goals and objectives of adopted Town plans, policies, and procedures;
  - b. Consistency with applicable zoning of the property;
  - c. Consistency with public improvements within the development and surrounding area;
  - d. Availability and adequacy of required public utilities and services necessary to serve the project, including but not limited to, sanitary and storm sewers, water, electrical, police, fire, roads, and pedestrian accessibility;
  - e. Capacity or safety of the street network influenced by the use;
  - f. Adverse environmental impacts generated by the project; and
  - g. Other applicable provisions of the Unified Development Ordinance.
5. **Decision Maker:** The Town Board shall review and approve, approve with conditions, or deny a Concept Plan associated with a Conditional Zoning District or Development Agreement. The Board of Adjustment shall review and approve, approve with conditions, or deny a Concept Plan associated with a Special Use Permit. When applicable approved

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Concepts shall proceed as a site plan or subdivision for review and to ensure all conditions have been met.

### Section 9.5 Minor Subdivision Review Process

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1. **Purpose:** Recognizing that small-scale subdivisions generally require less intense review, the Town of Troutman establishes this simplified procedure for minor subdivisions. This procedure is intended to provide one-time relief for applicants (or a minimum of 5 years between subdivisions).
2. **Applicability:** A minor subdivision shall be processed as a Final Plat. A subdivision is considered minor if it meets all of the following criteria:
  - a. No new public streets are required for lot access to a public street;
  - b. No new off-site easements or improvements are required;
  - c. The design and layout of the subdivision shall conform to all requirements of the Unified Development Ordinance;
  - d. The subdivision results in five (5) or fewer lots; and
  - e. No new utility improvements are required.
3. **Application and Procedure:** The application shall be filed with the Planning Department who shall review the application and forward the plat for review by affected utilities and other applicable agencies. The Zoning Administrator shall determine its completeness and compliance with the Unified Development Ordinance.
4. **Review Criteria:** The minor subdivision shall comply with the criteria set forth for Final Plats.
5. **Decision Maker:** The TRC shall approve or disapprove the minor subdivision. If denied, application fees (excluding engineering fees) for the resubmittal of the same application shall be waived if resubmitted within one (1) year of the initial submittal.
6. **Duration of Approval:** The applicant shall file the approved Subdivision Final Plat with the Iredell County Register of Deeds for recording, and shall provide proof of recording to the Planning Department within 90 days after the date of approval or the Subdivision Final Plat shall expire.

### Section 9.6 Preliminary Plat Review Process (Major Subdivisions)

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- A. **Purpose:** Recognizing that large-scale subdivisions generally require more intense review, the Town of Troutman establishes this procedure for major subdivisions to ensure subdivisions comply with adopted Town standards for lot development and public improvements. Preliminary plat approval allows the Town Board to review all substantive aspects of a proposed subdivision and impose such requirements as necessary to ensure compliance with applicable regulations.

- B. **Applicability:** The process for major subdivisions shall be followed when an owner of any tract or parcel of land desires to subdivide a tract or parcel into two (2) or more lots that create the need for the dedication of public right-of-way for new streets, road improvements to existing streets or the construction of off-site utility improvements, and the subdivision does not comply with the criteria for minor subdivisions.
- C. **Application and Procedure:** The application shall be filed with the Planning Department and shall be reviewed in conjunction with Engineering Documents.
- D. **Review Criteria:** Prior to approving a Preliminary Plat, the TRC, Planning Board, and Town Board shall find:
- a. The plat is consistent with the approved Sketch or Concept Plan, including any conditions established at the time of approval.
  - b. The application conforms with environmental and health laws and regulations,
  - c. The subdivision complies with all applicable provisions of the Unified Development Ordinance, including but not limited to:
    - i. Each residential lot has adequate and safe access to a local street;
    - ii. The parcel, lot and land layout is consistent with generally accepted land planning and engineering site design principles;
    - iii. The logical relationship of the street and lot layout to the topography and other physical features of the property;
    - iv. The applicant agrees to dedicate and improve land, rights-of-way, and easements, as may be necessary to conform to the purposes of adopted regulations, standards, and requirements; and
    - v. The subdivision is consistent with the need to minimize flood damage; and
    - vi. The public utilities and facilities such as sewer, gas, electrical and water systems are located and constructed to minimize flood damage; and
    - vii. Adequate drainage is provided to reduce exposure to flood hazards.
- E. **Decision Maker:** Following recommendations by TRC and the Planning Board The Town Board shall then approve, approve with revisions, or deny the Preliminary Plat. If denied, Staff shall advise the applicant of the reasons for denial. Approval of a Preliminary Plat shall constitute approval to proceed with preparation of the Engineering Documents, Improvement Plan, and Final Plat, but shall not be deemed approval of the subdivision.
- F. **Duration of Approval:** An applicant shall have two (2) years from the date of preliminary plat approval to submit a Final Plat consistent with the terms and conditions of the Preliminary Plat. The applicant may submit a final plat for only a portion of the subdivision given preliminary plat approval. Said submission shall extend the expiration date for the remaining portion(s) of the subdivision for an additional two (2) years past the date of said final plat approval.

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### Section 9.7 Engineering Document & Improvement Plan Review Process

- A. Engineering Documents Review and Approval:** Engineering Documents shall be reviewed by Planning Staff, the Town Engineer, and other relevant federal, state, and local agencies. The proposed infrastructure and details shall meet the requirements of Chapter 8 and Appendix B of this Ordinance. Preliminary Plat review may occur simultaneously with this step. Following Engineering Document approval, the development plans shall proceed to bonding and site improvements.
- B. Improvement Plan Review and Approval:** Upon approval of the Preliminary Plat and Engineering Documents, the applicant shall submit a plan describing the bonding or installation improvements for the subdivision. Following approval of the Improvement Plan by the Town Manager, the applicant may proceed with the installation of or arrangement for required improvements in accordance with the approved Preliminary Plat, Engineering Documents, and the requirements of this Ordinance. Prior to approval of a final plat, the applicant shall have installed the improvements specified in this Ordinance or guaranteed their installation as provided below:

**Agreement and Security Required:** In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the Town of Troutman may enter into an agreement with the applicant whereby the applicant shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Zoning Administrator, if all other requirements of this Ordinance are met. To secure this agreement, the applicant shall provide to the Town Manager either one, or a combination of the following guarantees. The amount of such guarantee shall be satisfactory to the Town Manager as to the form and sufficient to the Town Engineer as to the cost of installing all required improvements (equal to 1.25 times the cost). All such guarantees shall be subject to the approval of the Town Manager and shall be made payable to the Town of Troutman.

- i. **Surety Performance Bond(s):** The applicant shall obtain one or more performance bond(s) from a surety bonding company authorized to do business in North Carolina. The duration of the bond(s) shall be until such time as the improvements are accepted by the Town Manager.
- ii. **Cash or Equivalent Security:** The applicant shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town of Troutman. The use of any instrument other than cash shall be subject to the approval of the Town Manager. If cash or other instrument is deposited in escrow with a financial institution as herein provided, the applicant shall then file with the Town Manager an agreement between the financial institution and himself guaranteeing the following:
  - That said escrow account shall be held in trust until released by the Town Manager and may not be used or pledged by the applicant in any other matter during the term of the escrow; and



- That in case of a failure on the part of the applicant to complete said improvements, the financial institution shall, upon notification by the Town Manager and submission of the Town Engineer's estimate of the amount needed to complete the improvements by the Town Manager to the financial institution immediately either pay to the Town the funds estimated to complete the improvements, up to the full balance of the escrow account or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.
- iii. **Default:** Upon default, meaning failure on the part of the applicant to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the Town Manager, pay all or any portion of the bond or escrow fund to the Town of Troutman up to the amount needed to complete the improvements based on the Town Engineer's estimate. Upon payment, the Town Manager, in his/her discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the bonding firm any funds not spent in completing the improvements. Should the amount of funds needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the applicant shall nonetheless be responsible for providing the funds to cover such costs. The applicant shall at all times bear the financial burden for the installation of all required improvements.
- iv. **Release of Guarantee Security:** The Town Manager may authorize the Finance Director to release a portion of any security posted as the improvements are completed and approved by the Town. Such funds shall then be released within ten (10) days after the corresponding improvements have been so approved.

### Section 9.8 Final Plat Review Process (Major & Minor Subdivisions)

1. **Purpose:** Final Plat approval is required at the completion of the subdivision process so the subdivision plat and dedications (if applicable) can be recorded and lots transferred.
2. **Application:** The applicant shall submit an application with the Planning Department.
3. **Review Criteria:** When the Final Plat conforms to the approved Preliminary Plat, such fact shall be indicated on the face of the plat. Prior to approval of a Final Plat, the TRC shall make the following findings:
  - a. *Substantial Conformance to Preliminary Plat:* The Final Plat shall substantially conform to the approved Preliminary Plat. Substantial deviations include, but are not limited to, the following:
    - i. Changes in the location or design of a public street;
    - ii. Changes in the number of layout of lots or blocks;
    - iii. Changes in access to lots;
    - iv. Changes in areas, streets or rights-of-way to be reserved or dedicated;
    - v. Changes in the drainage plan that increase runoff;

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- vi. Changes in the public utilities and facilities to be provided; and
- vii. Changes in the buffering between the subdivision and adjacent property.
- b. *Conformance to Regulations:* The Final Plat shall conform to all applicable requirements and regulations; and
- c. *Submission Requirements:* All submission requirements have been satisfied.
- 4. **Staff Action:** The Zoning Administrator shall review the Final Plat to ensure all the requirements have been fulfilled. The Zoning Administrator may forward copies of the Final Plat to appropriate departments and agencies for their review and shall forward all staff and agency comments to the applicant and TRC.
- 5. **Decision Maker:** The TRC shall review the application and approve, approve with revisions, or deny the Final Plat. Upon denial, the Town shall advise the applicant of the reason for denial in writing.
- 6. **Filing and Recordation:** The applicant shall file the approved Subdivision Final Plat with the Iredell County Register of Deeds for recording, and shall provide proof of recording to the Planning Department within 90 days after the date of approval or the Subdivision Final Plat shall expire.

### Section 9.9 Site Plan Review Process

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1. **Purpose:** Site Plan approval ensures the proposed development complies with this Code. Site Plan review may also consider the siting of proposed construction and its impact on topography, vegetation, adjacent development, improvements in the immediate area and the site plan's conformance to the goals, objects, and policies of the Town of Troutman.
2. **Applicability:** Site Plan review shall be required for all new development and redevelopment other than detached single family residences and repairs of existing structures. No certificate of zoning compliance or building permit shall be issued for a development subject to site plan review until such site plan has been approved.
3. **Application and Procedure:** A property owner or designated representative shall initiate site plan review by filing an application with the Planning Department in conformance with the requirements of the Unified Development Ordinance. Site Plans are to be reviewed and approved by the TRC.
4. **Review Criteria:** Prior to approving a Site Plan the TRC shall find:
  - a. Conformance: Development of the site as proposed conforms to all requirements of this Ordinance;
  - b. Consistency: Development of the site is consistent with the adopted plans and policies of the Town.
5. **Engineering Documents Requirements:** The applicant shall file the Engineering Documents in conformance with the requirements of Chapter 8 and Appendix B.
6. **Decision Maker:** The TRC shall approve, approve with revisions, or deny approval of site plans, in conformance with the criteria established in this section. Approval of a Site Plan shall constitute approval to proceed with preparation of the Engineering Documents (and Improvement Plan if applicable).
7. **Duration of Approval:**

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- a. Time Limit: The approved Site Plan shall be kept on file by the Town and shall expire one (1) year from the date of site plan approval, unless construction has commenced.
- b. Permit Life: Site Plan approval shall be valid as long as the applicant retains a valid building permit or certificate of occupancy.
- c. Change of Ownership: Site Plan approval shall run with the land and shall continue to be valid upon change of ownership of the site or structure that was the subject of the application.

### Section 9.10 Reserved

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### Section 9.11 Subdivision Provisions

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#### 9.11.1 School Site Reservation

If the Town Board and the Iredell County/Statesville Board of Education have jointly determined the specific location and size of any school sites to be reserved, Planning Staff shall immediately notify the Board of Education in writing whenever a Sketch Plan for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have eighteen (18) months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within eighteen (18) months, the subdivider may treat the land as freed of the reservation. If not considered during the initial approval process, any proposed layout or use of the freed land shall be subject to the entire development review process.

#### 9.11.2 Special Exceptions for Relief from Hardships

This section shall be applicable to all subdivisions, except those located in a Water Supply Watershed. The Town Board may authorize relief from any portion of these regulations when, in their opinion, undo hardship may result from their strict compliance. In granting relief, the Town Board shall conduct a quasi-judicial public hearing for the Subdivision and make the findings required herein, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No relief shall be granted unless it is found:

- A. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land; and
- B. That the relief is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and
- C. That the circumstances giving rise to the need for the relief are peculiar to the subdivision and are not generally characteristic of other subdivisions in the jurisdiction of this Ordinance; and
- D. That the granting of the relief will not be detrimental to the public health, safety and welfare or injurious to other property in the area in which said property is situated.

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Every decision the Town Board pertaining to the granting of relief shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within thirty (30) days after the decision of the Town Board is filed in the Office of the Zoning Administrator, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Zoning Administrator at the time of the Town Board's hearing, whichever is later.

### **9.11.3 Issuance of Zoning Permits and Conveyance of Subdivision Lots**

- A. After the effective date of this Ordinance, no subdivision plat of land within the jurisdiction of this Ordinance shall be filed or recorded unless it has first been submitted to the Zoning Administrator and approved by the proper body as set forth in this Ordinance, and until this approval is entered in writing on the face of the plat by the Zoning Administrator. Such shall not be required of any subdivision of land which, by definition herein, is exempt from the terms of this Ordinance.
- B. No zoning permit shall be issued by the Town of Troutman for the erection of any building on any lot within a proposed subdivision until a final plat of said subdivision has been approved in a manner as prescribed by this Ordinance and recorded at the Register of Deeds Office and where applicable, an improvements permit has been issued by the Iredell County Health Department.
- C. After the effective date of this Ordinance, it shall be illegal for any person being the owner or agent of the owner of any land located within the territorial jurisdiction of this Ordinance, to subdivide his land in violation of this Ordinance or to transfer or sell land before the plat has been properly approved under the terms of this Ordinance.
- D. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town Board, through its attorney or other official so designated, may enjoin an illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this Ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4. Civil penalties may be issued in accordance with Chapter 13.
- E. The Register of Deeds shall not file or record a plat of a subdivision of land located within the jurisdiction of this Ordinance that has not been first approved in accordance with these provisions.

## **Section 9.12 Special Use Permit Provisions**

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### **9.12.1 Purpose and Applicability**

This Ordinance provides for a number of uses to be located by right in each general zoning district subject to the use meeting certain area, height, yard, and off-street parking and loading requirements. In addition to these uses, the Ordinance allows some uses on a special use basis subject to the issuance of a Special Use Permit by the Board of Adjustment. The purpose of having such uses being "special uses" is to ensure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located. Those uses shown as Special Uses in the Permitted and Special Uses Table of Section 3.13 shall be subject to the requirements and review process of this Section.

### **9.12.2 Approval Process**

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Special Use Permits shall be approved in accordance with Section 16.8.

### Section 9.13 Rezoning Provisions

#### 9.13.1 Standard Rezonings

For Standard Rezonings (map amendments), a Concept Plan is not required. Approval of a Standard Rezoning shall result in an official amendment to the Town of Troutman Zoning Map. Any development of the property shall be reviewed and approved in accordance with the appropriate procedure depending on the type of development proposed. A Standard Rezoning is subject to the procedures outlined in Chapter 13 of this Ordinance.

#### 9.13.2 Conditional Zoning District Rezonings and Developments

The Conditional Zoning District (CZ) is established to address those situations when a particular use may be acceptable but the general zoning district(s) that would allow that use would not be acceptable. Rezoning of property to any CZ is a voluntary procedure on the part of the property owner and is intended for firm development proposals. It is not intended or suited for securing early zoning for a tentative proposal that may be undertaken at some unknown time in the future. Such zones may be approved or changed only by the Town Board in accordance with the regulations contained herein.

### Section 9.14 Vested Rights Procedures

Pursuant to G.S. 160A-385.1 and notwithstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a site specific development plan approval which shall entitle said landowner to develop property in accordance with said site specific plan. To apply for vested right, a landowner shall first submit to the Zoning Administrator a Concept Plan. Once the Zoning Administrator deems the Concept Plan to be complete, it shall follow the Town Board approval process.

#### 9.14.1 Approval Process & Criteria

- A. Vested Rights requests shall follow the appropriate approval process and submittal requirements for either Major Site Plans and Subdivisions or Minor Site Plans and Subdivisions as defined by this Ordinance. In approving an application for Vested Rights, the Town Board may attach fair and reasonable conditions which tend to support the requiring finding of facts as herein listed. The petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Board. The Town Board may not require the landowner to waive his vested right as a condition of developmental approval.
- B. The Town Board may approve the Concept Plan if it has evaluated an application and determined that:
  1. The use meets all required specifications of the Zoning Ordinance, and
  2. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed. Conditions, if any, placed on the site specific development plan by the Town Board shall be adequate to meet this requirement.
  3. If the Concept Plan is vested for a period of greater than two (2) years, this shall be based on one or more factors so described in Section 9.12.2(A).
- C. The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the Concept Plan would be contrary to one or more of these findings shall rest entirely with the landowner.

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- D. If the use or development for which the Concept Plan is submitted is a special use, the Town Board may approve the Concept Plan contemporaneously with the approval of the Special Use Permit. In no case, however, may a Concept Plan be approved for a use or development which requires the issuance of a Special Use Permit without the Special Use Permit having first been issued.

### 9.14.2 Effect of Approval

- A. The effect of the Town Board approving a Concept Plan shall be to vest such site plan for a period of two (2) years from the date of approval. If the landowner requests, however, the Town Board may approve a vesting period not to exceed five (5) years from the date of approval. The vesting of any Concept Plan beyond a two (2) year period may only be authorized by the Town Board where it is found that due to:
- sizing and phasing of the development; or
  - level of investment; or
  - need for the development; or
  - economic cycles; or
  - market conditions, building permits for all phases of the development cannot be secured within two years
- B. A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan as provided for in this Section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the vested right previously accorded.
- C. A vested right, once established as herein provided, shall preclude any zoning action by the Town which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in the approved site specific development except under the following conditions:
- The affected landowner provides written consent to the Town of his desire to terminate the vested right; or
  - The Town determines, after having advertised and held a public hearing, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the site specific development plan; or
  - Compensation is made by the Town to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other
  - consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or
  - The Town determines, after having advertised and held a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the Town of the Concept Plan; or
  - Upon the enactment or promulgation of a State or Federal law or regulations which precludes development as contemplated in the site-specific development plan. In such case the Town may (after having advertised and conducted a public hearing) modify the affected provisions upon a finding that the change in State or Federal law has a fundamental effect on the plan.
- D. Public hearings shall be advertised and conducted by the Town Board. Recommendation by the Planning Board and final action by the Town Board shall be undertaken.

- E. Once a vested right is granted to a particular Concept Plan, nothing in this section shall preclude the Town from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are not inconsistent with the original approval.

### **9.14.3 Revocation or Expiration of a Vested Right**

The vested right resulting from the approval of a Concept Plan may be revoked by the Town Board. In addition, a revocation may occur if the Town Board determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Zoning Ordinance. The vested right shall otherwise expire at the end of the approval period established by the Town Board.

A building permit issued by the Iredell County Building Inspector pursuant to G.S. 160A-417 may not be revoked because of the running of time on a piece of property for which a Concept Plan has been approved and the vested right period has not otherwise expired.

The establishment of a vested right on a piece of property for a Concept Plan shall not preclude the Town from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.